Regulations is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350 and 12 U.S.C. 5221(e)(3), unless otherwise noted.

* * * * *

2. Amend § 240.12h–3 by:

a. In paragraph (b)(1) introductory text add ", other than any class of asset-backed securities," in the first sentence after "Any class of securities"; and

b. Adding a Note to paragraph (b).

The addition to read as follows:

§ 240.12h–3 Suspension of duty to file reports under section 15(d).

* * * * *

(b) * * *

Note to Paragraph (b): The suspension of classes of asset-backed securities is addressed in § 240.15d–22.

* * * * *

3. Revise § 240.15d–22 to read as follows:

§ 240.15d–22 Reporting regarding asset-backed securities under section 15(d) of the Act.

(a) With respect to an offering of asset-backed securities registered pursuant to § 230.415(a)(1)(x) of this chapter:

(1) Annual and other reports need not be filed pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) regarding any class of securities to which such registration statement relates until the first bona fide sale in a takedown of securities under the registration statement; and

(2) The starting and suspension dates for any reporting obligation under section 15(d) of the Act (15 U.S.C. 78o(d)) with respect to a takedown of any class of asset-backed securities is determined separately for each takedown of securities under the registration statement.

(b) The duty to file annual and other reports pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) regarding any class of asset-backed securities is suspended as to any fiscal year, other than the fiscal year within which the registration statement became effective, if, at the beginning of the fiscal year there are no longer any asset-backed securities of such class that were sold in a registered transaction held by non-affiliates of the depositor.

(c) This section does not affect any other reporting obligation applicable with respect to any classes of securities from additional takedowns under the same or different registration statements or any reporting obligation that may be applicable pursuant to section 12 of the Act (15 U.S.C. 78*l*).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

4. The authority citation for part 249 continues to read as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

5. Amend Form 15 (referenced in § 249.323) by adding a checkbox referring to "Rule 15d–22(b)" after the checkbox referring to "Rule 15d–6".

Dated: January 6, 2011.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–416 Filed 1–11–11; 8:45 am]

BILLING CODE 8011–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49, 60, 63, 75, 86, 89, 92, 94, 761, and 1065

[EPA–HQ–OPPT–2010–0518; FRL–8846–6]

RIN 2070–AJ51

Incorporation of Revised ASTM Standards That Provide Flexibility in the Use of Alternatives to Mercury-Containing Thermometers; Solicitation of Public Comment on the Required Use of Mercury-Containing Thermometers in EPA Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to incorporate the most recent versions of the American Society for Testing and Materials (ASTM) International standards (ASTM standards) into EPA regulations that provide flexibility to use alternatives to mercury-containing industrial thermometers. These proposed amendments will allow the use of such alternatives in certain limited field and laboratory applications previously impermissible as part of compliance with EPA regulations. Additionally, EPA is seeking public input on the need to address the remaining EPA regulations that incorporate by reference ASTM standards that do not allow the use of alternatives to mercury-containing industrial thermometers. EPA believes these embedded ASTM standards may unnecessarily impede the use of effective, comparable, and available mercury alternatives. Due to elemental mercury's high toxicity, EPA seeks to reduce potential mercury exposures to humans and the environment by reducing the overall use of mercury-containing products, including mercury-containing thermometers.

DATES: Comments must be received on or before March 14, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2010–0518 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. *Attention:* Docket ID Number EPA–HQ–OPPT–2010–0518. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2010–0518. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available

on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC), Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Robert Courtnage, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (202) 566–1081; *e-mail address: courtnage.robert@epa.gov.*

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; *telephone number:* (202) 554–1404; *e-mail address: TSCA–Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you use mercury-containing thermometers in laboratories, for field analysis, or for other industrial applications. Potentially affected entities may include, but are not limited to:

- Testing Laboratories (NAICS code 541380).
- Petroleum Refineries (NAICS code 324110).
- Analytical Laboratory Instrument Manufacturing (NAICS code 334516).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the Agency taking?

EPA's action is part of a more expansive Agency initiative to reduce the use of mercury-containing products to help prevent unnecessary human and environmental exposures to elemental mercury. EPA is proposing to incorporate revised ASTM standards that provide flexibility to use alternatives to mercury-containing industrial thermometers as part of complying with EPA regulatory requirements. Separately, EPA is soliciting responses from the public to specific questions (*see* Unit II.B.) relating to the need to revise the remaining ASTM standards embedded within EPA regulations that require the use of mercury-containing thermometers. EPA is specifically interested in public responses that address the benefits of providing flexibility to use mercury-containing thermometer alternatives and whether the remaining EPA regulations that require the use of mercury-containing thermometers could be revised or whether mercury-containing thermometers are needed for their accuracy and performance.

Mercury exposures can harm the brain, heart, kidneys, lungs, and immune system. Most human exposure to mercury is through the consumption of fish containing methylmercury. Exposure to methylmercury through ingestion can harm the normal development of the nervous system, resulting in learning disabilities. Elemental mercury and other forms of mercury from industrial sources are deposited from the air and are converted into methylmercury. Mercury exposures can also occur by the inhalation of elemental mercury from the breakage or improper disposal of mercury-containing products such as mercury-containing thermometers. Inhalation exposure of elemental mercury can lead to neurotoxic and developmental neurotoxic effects.

Following a thorough search, the Agency determined that certain EPA

regulations reference ASTM standards that require the use of mercury-containing thermometers for certain temperature measurement applications. EPA seeks to provide the regulated community with the flexibility to use mercury-free alternatives, where feasible, comparable, and available. This action proposes to update EPA regulations to incorporate three specific ASTM standards (D5865–10, D445–09, and D93–09) that allow for the use of alternatives to mercury-containing thermometers. EPA is proposing to update these ASTM standards where they are referenced in regulations pursuant to the Clean Air Act (CAA) and the Toxic Substances Control Act (TSCA) (certain sections of 40 CFR parts 49, 60, 63, 75, 86, 89, 92, 94, 761, and 1065). One of the incorporated ASTM standards (D5865–10) requires the use of a mercury-free device while the other two standards (D445–09 and D93–09) provide the flexibility to use alternatives to mercury-containing thermometers, but do not require their use. EPA is proposing to allow the use of the updated standard D5865–10 and the previous standards, D5856–01a, D5856–03a, and D5856–04 so that flexibility is given to use mercury-free thermometers, but not required. Although a first step, incorporating these current standards comprises only a small percentage of the ASTM standards referenced within EPA regulations that require the use of mercury-containing thermometers. Further revisions to other relevant ASTM standards would be necessary before EPA could provide more comprehensive flexibility. To facilitate the use of mercury alternatives, EPA encourages ASTM to expeditiously review and revise their standards that require the use of mercury-containing thermometers, particularly those currently embedded in EPA regulations.

As part of the Agency's mercury-product reduction effort, EPA believes it is important to remove unnecessary requirements to use mercury-containing thermometers where viable and comparable non-mercury substitutes exist. The National Institute of Standards and Technology (NIST), recognized experts in the field of thermometry, believe there are no fundamental barriers to the replacement of mercury-containing thermometers. Although perceived as superior in performance, mercury-containing thermometers have readily available and comparable alternatives such as platinum resistance thermometers, thermistors, thermocouples, and portable electronic thermometers (PETs). The use of thermometers in high temperature applications, such as the use of thermometers in autoclaves, traditionally provided significant challenges to the use of mercury-containing thermometer alternatives. However, the use of data-loggers in autoclave operations is an example of an emerging innovation to allow the viable use of mercury substitutes.

In addition to the embedded ASTM standards, certain EPA regulations directly require the use of mercury-containing thermometers. Most of these regulations are pursuant to CAA and will be addressed through a separate rulemaking currently pursued by EPA's Office of Air and Radiation. It is important to note that for ASTM standards contained within State implementation plan (SIP) approvals the Agency will need to address each ASTM standard separately after consultation with the States.

Additionally, analytical methods mandated under the Resource Conservation and Recovery Act (RCRA) that use mercury-containing thermometers as a Method Defined Parameter (MDP) will not be addressed in this proposed rule. While the Office of Solid Waste and Emergency Response (OSWER) Methods Innovation Rule (MIR) allows flexibility in RCRA-related sampling and analysis by removing unnecessary requirements in SW–846 Methods, the MIR does not allow for flexibility for test methods that have MDPs. EPA may address MDPs in future actions but not as part of this proposed rule.

B. What questions would EPA like the public to answer?

1. How can EPA provide additional flexibility in the use of mercury-free thermometers to comply with the Agency's relevant regulations?

2. Are requirements to use mercury-containing thermometers necessary for performance reasons or should flexibility be provided in most if not all measurement applications?

3. Does the use of data-loggers for temperature measurement in autoclaves provide a viable alternative to the use of mercury-containing thermometers?

4. What else can EPA do to help expedite the use of alternatives to mercury-containing thermometers where feasible, comparable, and available?

C. What is the Agency's authority for taking this action?

This proposed rule is issued under the Agency's authority pursuant to the CAA (42 U.S.C. 7401–7671q) and TSCA (15 U.S.C. 2601–2692).

III. Statutory and Executive Order Reviews

A. Regulatory Planning and Review

This is not a "significant regulatory action" under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Accordingly, this action was not submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866.

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument, or form, if applicable. There are no information collection requirements in this proposed rule that require additional approval or consideration under PRA.

C. Small Entity Impacts

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant adverse economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. In making this determination, the impact of concern is any significant adverse economic impact on small entities because the primary purpose of regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities" (5 U.S.C. 603 and 604). Thus, an agency may certify under RFA when the rule relieves regulatory burden, or otherwise has no expected economic impact on small entities subject to the rule. EPA believes that this proposed rule does not have any adverse economic impact because it will provide flexibility by allowing the use mercury-free thermometers, without mandating their use. Of course, EPA welcomes comments on this conclusion.

D. Unfunded Mandates

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments,

in the aggregate, or the private sector in any 1 year. As such, EPA has determined that this proposed rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538).

E. Federalism

This action will not have federalism implications because it is not expected to have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this action.

F. Tribal Implications

This action will not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes, will not significantly or uniquely affect the communities of Indian Tribal governments, and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this action.

G. Children's Health Protection

EPA interprets Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks, nor is it an "economically significant regulatory action" as defined by Executive Order 12866.

H. Effect on Energy Supply, Distribution, or Use

This action is not a "significant energy action" as defined in Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not likely to affect the supply, distribution, or use of energy.

I. Technical Standards

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. ASTM standards constitute voluntary consensus standards and, as such, the NTTAA directly applies to this proposed rule. The NTTAA requires that EPA use voluntary consensus standards unless to do so would be inconsistent with applicable law or otherwise impractical. With this proposed rule, EPA is adding the most current versions of applicable ASTM standards that allow flexibility in the use of mercury-containing thermometers and in the spirit of the NTTAA plans to work closely with ASTM to address the remaining standards within EPA regulations that require the use of mercury-containing thermometers.

J. Environmental Justice

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Parts 49, 60, 63, 75, 86, 89, 92, 94, 761, and 1065

Environmental protection, temperature measurement, thermometers, and mercury.

Dated: January 3, 2011.

Lisa P. Jackson,

Administrator.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 49—[AMENDED]

1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In § 49.123 revise the definition of "Heat input" in paragraph (a) and revise paragraph (e)(1)(v) to read as follows:

§ 49.123 General provisions.

(a) * * *

Heat input means the total gross calorific value [where gross calorific value is measured by ASTM Method D240–02, D1826–94 (Reapproved 2003), D5865–04, D5865–10, or E711–87 (Reapproved 2004) (incorporated by reference, see § 49.123(e))] of all fuels burned.

* * * * *

(e) * * *

(1) * * *

(v) ASTM D5865–04 or 10, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for § 49.123(a).

* * * * *

PART 60—[AMENDED]

3. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 60.17 revise paragraph (a)(78) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(a) * * *

(78) ASTM D5865–98 or 10, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for § 60.45(f)(5)(ii), § 60.46(c)(2), and appendix A–7 to part 60, Method 19, section 12.5.2.1.3.

* * * * *

5. In Method 19 of appendix A–7 to part 60 revise section 12.5.2.1.3 to read as follows:

Appendix A–7 to Part 60—Test Methods 19 Through 25E

* * * * *

Method 19—Determination of Sulfur Dioxide Removal Efficiency and Particulate Matter, Sulfur Dioxide, and Nitrogen Oxide Emission Rates

* * * * *

12.5.2.1.3 Gross Sample Analysis. Use ASTM D 2013–72 or 86 to prepare the sample, ASTM D 3177– 75 or 89 or ASTM D 4239–85, 94, or 97 to determine sulfur content (%S), ASTM D 3173–73 or 87 to determine moisture content, and ASTM D 2015–77 (Reapproved 1978) or 96, D 3286–85 or 96, or D 5865–98 or 10 to determine gross calorific value (GCV) (all standards cited are incorporated by reference—see § 60.17 for acceptable versions of the standards) on a dry basis for each gross sample.

* * * * *

PART 63—[AMENDED]

6. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

7. In § 63.14 revise paragraph (b)(48) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(48) ASTM D5865–03a or 10, Standard Test Method for Gross Calorific Value of Coal and Coke, IBR approved for Table 6 to subpart DDDDD of this part.

* * * * *

8. In subpart DDDDD of part 63, Table 6 is amended by revising item d. under entries "1. Mercury * * *," "2. Total Selected metals * * *," and "3. Hydrogen chloride * * *" to read as follows:

* * * * *

TABLE 6 TO SUBPART DDDDD OF PART 63—FUEL ANALYSIS REQUIREMENTS

To conduct a fuel analysis for the following pollutant * * *	You must * * *	Using * * *
1. Mercury * * *.		
* *	* *	* * *
	d. Determine heat content of the fuel type * * *.	ASTM D5865–03a or D5865–10 (for coal) (IBR, see § 63.24(b)) or ASTM E711–87 (for biomass) (IBR, see § 63.14(b)) or equivalent.
* *	* *	* * *
2. Total Selected metals.		
* *	* *	* * *
	d. Determine heat content of the fuel type * * *.	ASTM D5865–03a or D5865–10 (for coal) (IBR, see § 63.14(b)) or ASTM E711–87 (1996) (for biomass) (IBR, see § 63.14(b)) or equivalent.
* *	* *	* * *
3. Hydrogen chloride * * *.		
* *	* *	* * *
	d. Determine heat content of the fuel type * * *.	ASTM D5865–03a or D5865–10 (for coal) (IBR, see § 63.14(b)) or ASTM E711–87 (1996) (for biomass) (IBR, see § 63.14(b)) or equivalent.
* *	* *	* * *

PART 75—[AMENDED]

9. The authority citation for part 75 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651K, and 7651K note.

10. In § 75.6 add new paragraph (a)(50) to read as follows:

§ 75.6 Incorporation by reference.

* * * * *

(a) * * *

(50) ASTM D5865–10, Standard Test Method for Gross Calorific Value of Coal and Coke, for appendices A, D, and F of this part.

* * * * *

11. In appendix A to part 75 revise paragraph (c) of section 2.1.1.1 to read as follows:

Appendix A to Part 75—Specifications and Test Procedures

* * * * *

2.1.1.1 Maximum Potential Concentration

* * * * *

(c) When performing fuel sampling to determine the MPC, use ASTM Methods: ASTM D3177–02 (Reapproved 2007), Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke; ASTM D4239–02, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High-Temperature Tube Furnace Combustion Methods; ASTM D4294–98, Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry; ASTM D1552–01, Standard Test Method for Sulfur in Petroleum Products (High-Temperature Method); ASTM D129–00, Standard Test Method for Sulfur in Petroleum Products (General Bomb Method); ASTM D2622–98, Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive Xray Fluorescence Spectrometry, for sulfur content of solid or liquid fuels; ASTM D3176–89 (Reapproved 2002), Standard Practice for Ultimate Analysis of Coal and Coke; ASTM D240–00, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter; ASTM D5865–01a or ASTM D5865–10, Standard Test Method for Gross Calorific Value of Coal and Coke (all incorporated by reference under § 75.6).

* * * * *

12. In appendix D to part 75 revise section 2.2.7 to read as follows:

Appendix D to Part 75—Optional So_2 Emissions Data Protocol for Gas-Fired and Oil-Fired Units

* * * * *

2.2.7 Analyze oil samples to determine the heat content of the fuel. Determine oil heat content in accordance with ASTM D240–00, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, ASTM D4809–00, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), ASTM D5865–01a, or D5865–10, Standard Test Method for Gross Calorific Value of Coal and Coke (all incorporated by reference under § 75.6) or any other procedures listed in section 5.5 of appendix F of this part. Alternatively, the oil samples may be analyzed for heat content by any consensus standard method prescribed for the affected unit under part 60 of this chapter.

* * * * *

13. Appendix F to part 75 is amended as follows:

a. Revise sections 3.3.6.2 and 5.5.3.2.

b. Revise the expression "GCV_O" in paragraph (a) of section 5.5.1.

c. Revise the expression "GCV_C" in section 5.5.3.3 to read as follows:

Appendix F to Part 75—Conversion Procedures

* * * * *

3.3.6.2 GCV is the gross calorific value (Btu/lb) of the fuel combusted determined by ASTM D5865–01a or ASTM D5865–10, Standard Test Method for Gross Calorific Value of Coal and Coke, ASTM D240–00, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by

Bomb Calorimeter, or ASTM D4809–00, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method) for oil; and ASTM D3588–98, Standard Practice for Calculating Heat Value, compressibility Factor, and Relative Density of Gaseous Fuels, ASTM D4891–89 (Reapproved 2006), Standard Test Method for Heating Value of Gases in Natural Gas Range by Stoichiometric Combustion, GPA Standard 2172–96 Calculation of Gross Heating Value, Relative Density and Compressibility Factor for Natural Gas Mixtures from Compositional Analysis, GPA Standard 2261–00 Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography, or ASTM D1826–94 (Reapproved 1998), Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, for gaseous fuels, as applicable. (All of these methods are incorporated by reference under § 75.6.)

* * * * *

5.5.1 (a) * * *

GCV_O= Gross calorific value of oil, as measured by ASTM D240–00, ASTM D5865–01a, ASTM D5865–10, or ASTM D4809–00 for each oil sample under section 2.2 of appendix D to this part, Btu/unit mass (all incorporated by reference under § 75.6).

* * * * *

5.5.3.2 All ASTM methods are incorporated by reference under § 75.6. Use ASTM D2013–01, Standard Practice for Preparing Coal Samples for Analysis, for preparation of a daily coal sample and analyze each daily coal sample for gross calorific value using ASTM D5865–01a or ASTM D5865–10, Standard Test Method for Gross Calorific Value of Coal and Coke. On-line coal analysis may also be used if the on-line analytical instrument has been demonstrated to be equivalent to the applicable ASTM methods under §§ 75.23 and 75.66.

5.5.3.3 * * *

GCV_C= Gross calorific value of coal sample, as measured by ASTM D3176–89 (Reapproved 2002), ASTM D5865–01a, or ASTM D5865–10, Btu/lb (incorporated by reference under § 75.6).

* * * * *

PART 86—[AMENDED]

14. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

15. Section 86.113–07 is amended as follows:

a. Revise entries (vii) and (viii) in the table in paragraph (b)(2).

b. Revise entries (vi) and (vii) in the table in paragraph (b)(3) to read as follows:

§ 86.113–07 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

Item			ASTM Test Method No.	Type 2–D
*	*	*	*	*
(vii) Flashpoint, min	°F		D93–09	130
	(°C)			(54.4)
(viii) Viscosity	centistokes		D445–09	2.0–3.2

(3) * * *

Item			ASTM Test Method No.	Type 2–D
*	*	*	*	*
(vi) Flashpoint, min	°F		D93–09	130
	(°C)			(54.4)
(vii) Viscosity	centistokes		D445–09	2.0–3.2

* * * * *

16. In § 86.113–94 revise the entries “Flashpoint, min.” and “Viscosity” in the table in paragraph (b)(2) and in the table in paragraph (b)(3) to read as follows:

§ 86.113–94 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

Item			ASTM Test Method No.	Type 2–D
*	*	*	*	*
Flashpoint, min	°F		D93–09	130
	(°C)			(54.4)
Viscosity	centistokes		D445–09	2.0–3.2

* * * * *

(3) * * *

Item			ASTM Test Method No.	Type 2–D
*	*	*	*	*
Flashpoint, min	°F		D93–09	130
	(°C)			(54.4)
Viscosity	centistokes		D445–09	1.5–4.5

* * * * *

17. The authority citation for part 86, subpart D, continues to read as follows:

Authority: Secs. 202, 206, 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, 1857f–5a, 1857f–6, 1857g(a)).

18. In § 86.307–82 revise the entries “Flashpoint, °F (minimum)” and “Viscosity, centistokes” in the table in

paragraph (b)(2) and in the table in paragraph (b)(3) to read as follows:

§ 86.307–82 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

Item	ASTM Test Method No.	Type 1–D	Type 2–D
* * * * * * *			
Flashpoint, °F (minimum)	D93–09	120	130
Viscosity, centistokes	D445–09	1.6–2.0	2.0–3.2

* * * * *

(3) * * *

Item	ASTM Test Method No.	Type 1–D	Type 2–D
* * * * * * *			
Flashpoint, °F (minimum)	D93–09	120	130
Viscosity, centistokes	D445–09	1.2–2.2	1.5–4.5

* * * * *

19. The authority citation for part 86, subpart N, continues to read as follows:

Authority: Secs. 202, 206, 207, 208, 301(a), Clean Air Act as amended 42 U.S.C. 7521, 7524, 7541, 7542, and 7601.

20. Section 86.1313–94 is amended as follows:

a. Revise entries "Flashpoint, °F, (°C), and (minimum)" and "Viscosity, Centistokes" in Table N94–2 in paragraph (b)(2).

b. Revise entries "Flashpoint, min. °F (°C)" and "Viscosity, centistokes" in Table N94–3 in paragraph (b)(3) to read as follows:

§ 86.1313–94 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

TABLE N94–2

Item	ASTM	Type 1–D	Type 2–D
* * * * * * *			
Flashpoint, °F	D93–09	120	130
(°C)		(48.9)	(54.4)
(minimum)			
Viscosity, centistokes	D445–09	1.6–2.0	2.0–3.2

* * * * *

(3) * * *

TABLE N94–3

Item	ASTM	Type 1–D	Type 2–D
* * * * * * *			
Flashpoint, min. °F (°C)	D93–09	120	130
		(48.9)	(54.4)
Viscosity, centistokes	D445–09	1.2–2.2	1.5–4.5

* * * * *

21. In § 86.1313–98 revise the entries "Flashpoint, min." and "Viscosity" in Table N98–2 in paragraph (b)(2) to read as follows:

§ 86.1313–98 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

TABLE N98–2

Item		ASTM Test Method No.	Type 1–D	Type 2–D
* * * * * * *				
Flashpoint, min	°F	D93–09	120	130
	(°C)		(48.9)	(54.4)
Viscosity	centistokes	D445–09	1.6–2.0	2.0–3.2

* * * * *

22. Section 86.1313–2007 is amended as follows:

a. Revise entries (vii) and (viii) in Table N07–2 in paragraph (b)(2).

b. Revise entries (vi) and (vii) in Table N07–3 in paragraph (b)(3) to read as follows:

§ 86.1313–2007 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

TABLE N07–2

Item		ASTM Test Method No.	Type 1–D	Type 2–D
* *	* *	* *		*
(vii) Flashpoint, min	°F	D93–09	120	130
	(°C)		(48.9)	(54.4)
(viii) Viscosity	centistokes	D445–09	1.6–2.0	2.0–3.2

(3) * * *

TABLE N07–3

Item		ASTM Test Method No.	Type 1–D	Type 2–D
* *	* *	* *		*
(vi) Flashpoint, min	°F	D93–09	130	130
	(°C)		(54.4)	(54.4)
(vii) Viscosity	centistokes	D445–09	1.2–2.2	1.5–4.5

* * * * *

PART 89—[AMENDED]

23. The authority citation for part 89 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

24. In § 89.6 remove entries “ASTM D93–97” and “ASTM D445–97” and add entries “ASTM D93–09” and “ASTM D445–09” in numerical order to the table in paragraph (b)(1) to read as follows:

§ 89.6 Reference materials.

* * * * *

(b) * * *

(1) * * *

Document No. and name	40 CFR part 89 reference
* * * * * * *	
ASTM D93–09:	
“Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester”	Appendix A to Subpart D.
* * * * * * *	
ASTM D445–09:	
“Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity)”.	Appendix A to Subpart D.
* * * * * *	

* * * * *

25. In appendix A to subpart D of part 89, Table 4 is amended by revising the entries “Flashpoint, °C (minimum)” and “Viscosity @ 38 °C, Centistokes” to read as follows:

Appendix A to Subpart D of Part 89—Tables

* * * * *

TABLE 4—FEDERAL TEST FUEL SPECIFICATIONS

Item	Procedure (ASTM) [1]	Value (type 2–D)
* * * *	* *	*
Flashpoint, °C (minimum)	D93–09	54
Viscosity @ 38 °C, centistokes	D445–09	2.0–3.2

[1] All ASTM procedures in this table have been incorporated by reference. See § 89.6.

* * * * *

PART 92—[AMENDED]

26. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

27. In § 92.5, the table in paragraph (b)(1) is amended by removing the entries "ASTM D 93–94" and "ASTM D 445–94" and adding the entries "ASTM D 93–09" and "ASTM D 445–09" to read as follows:

§ 92.5 Reference materials.

* * * * *

(b) * * *

(1) * * *

Document No. and name	40 CFR part 92 reference
* * * * * * *	
ASTM D 93–09, Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester	§ 92.113
* * * * * * *	
ASTM D 445–09, Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity)	§ 92.113
* * * * * * *	

* * * * *

28. In § 92.113 revise the entries "Flashpoint, min., °F and °C" and "Viscosity, centistokes" in Table B113–1 in paragraph (a)(1) to read as follows:

§ 92.113 Fuel specifications.

(a) * * *

(1) * * *

TABLE B113–1

Item	ASTM	Type 2–D
* * * * * * *		
Flashpoint, min.		
°F	D93–09	130
°C		(54.4)
Viscosity, centistokes	D445–09	2.0–3.2

* * * * *

PART 94—[AMENDED]

29. The authority citation for part 94 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

30. In § 94.5, Table 1 in paragraph (a) is amended by removing the entries "ASTM D 93–02" and "ASTM D 445–01" and adding the entries "ASTM D 93–09" and "ASTM D 445–09" to read as follows:

§ 94.5 Reference materials.

* * * * *

(a) * * *

TABLE 1 OF § 94.5—ASTM MATERIALS

Document No. and name	Part 94 reference
* * * * * * *	
ASTM D 93–09, Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester	94.108
* * * * * * *	
ASTM D 445–09, Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity)	94.108
* * * * * * *	

* * * * *

31. In § 94.108 revise "Flashpoint, °C" and "Viscosity at 38 °C, centistokes" in Table B–5 in paragraph (a)(1) to read as follows:

§ 94.108 Test fuels.

(a) * * *

(1) * * *

TABLE B–5—FEDERAL TEST FUEL SPECIFICATIONS

Item	Procedure [1]	Value
* * * *	* * *	*
Flashpoint, °C	ASTM D 93–09	54 minimum.
* * * *	* * *	*
Viscosity at 38 °C, centistokes	ASTM D445–09	2.0–3.2.

[1] All ASTM standards are incorporated by reference in § 94.5.

* * * * *

PART 761—[AMENDED]

32. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

33. In § 761.19, the table in paragraph (b) is amended by removing the entry "ASTM D 93–90" and adding the entry "ASTM D 93–09" to read as follows:

§ 761.19 References.

* * * * *

(b) * * *

References	CFR citation
ASTM D 93–09 Standard Test Methods for Flash Point by Pensky-Martens Closed Tester	§ 761.71(b)(2)(vi); § 761.75(b)(8)(iii).
* * * * * * *	*

34. In § 761.71 revise paragraph (b)(2)(vi) to read as follows:

§ 761.71 High efficiency boilers.

* * * * *

(b) * * *

(2) * * *

(vi) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as follows: Carbon and hydrogen content using ASTM D–3178–84, nitrogen content using ASTM E–258–67 (Reapproved 1987), sulfur content using ASTM D–2784–89, ASTM D–1266–87, or ASTM D–129–64, chlorine content using ASTM D–808–87, water and sediment content using either ASTM D–2709–88 or ASTM D–1796–83 (Reapproved 1990), ash content using ASTM D–482–87, calorific value using ASTM D–240–87, carbon residue using either ASTM D–2158–89 or ASTM D–524–88, and flash point using ASTM D–93–09.

* * * * *

35. In § 761.75 revise paragraph (b)(8)(iii) to read as follows:

§ 761.75 Chemical waste landfills.

* * * * *

(b) * * *

(8) * * *

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 °C (140 °F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM D–93–09, or the Setaflash Closed Tester using the protocol specified in ASTM D–3278–89.

* * * * *

PART 1065—[AMENDED]

36. The authority citation for part 1065 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

37. In § 1065.703 revise the entries "Flashpoint, min." and "Kinematic Viscosity" in Table 1 of § 1065.703 to read as follows:

§ 1065.703 Distillate diesel fuel.

* * * * *

TABLE 1 OF § 1065.703—TEST FUEL SPECIFICATIONS FOR DISTILLATE DIESEL FUEL

Item	Units	Ultra low sulfur	Low sulfur	High sulfur	Reference procedure [1]
* * *	*	*		*	*
Flashpoint, min	°C	54	54	54	ASTM D93–09.
Kinematic Viscosity	cSt	2.0–3.2	2.0–3.2	2.0–3.2	ASTM D445–09.

[1] ASTM procedures are incorporated by reference in § 1065.1010. See § 1065.701(d) for other allowed procedures.

38. In § 1065.1010, Table 1 in paragraph (a) is amended by removing the entries "ASTM D93–07" and "ASTM D445–06" and adding the entries "ASTM D93–09" and "ASTM D 445–09" to read as follows:

§ 1065.1010 Reference materials.

* * * * *

(a) * * *

TABLE 1 OF § 1065.1010—ASTM MATERIALS

Document No. and name	Part 1065 reference
* * * * * * *	
ASTM D93–09, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester	1065.703
ASTM D 445–09, Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity)	1065.703
* * * * * * *	

* * * * *

[FR Doc. 2011–246 Filed 1–11–11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0729; FRL–9250–7]

Approval and Promulgation of Implementation Plans; Indiana; Removal of Vehicle Inspection and Maintenance Programs for Clark and Floyd Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation plan (SIP) revision submitted by the State of Indiana to allow the State to discontinue the vehicle inspection and maintenance (I/M) program in Clark and Floyd Counties, IN, the Indiana portion of the Louisville (IN-KY) 1997 8-hour ozone area. The revision specifically requests that I/M program regulations be removed from the active control measures portion of the SIP. The regulations will remain in the contingency measures portion of the Clark and Floyd Counties ozone maintenance plans. The Indiana Department of Environmental Management (IDEM) submitted this request on October 10, 2006, and supplemented it on November 15, 2006, November 29, 2007, November 25, 2008, April 23, 2010, and November 19, 2010. EPA is proposing to approve Indiana's request because the State has demonstrated that discontinuing the I/M program in Clark and Floyd Counties will not interfere with the attainment and maintenance of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) or with the attainment and maintenance of other air quality standards and requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before February 11, 2011.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–R05–OAR–2009–0729, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Control Strategies Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Control Strategies Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0729. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows: